

Safeguarding Children of Arrested Persons

7.04.01 PURPOSE

This Department General Order establishes policies and procedures for instances when a parent or other person, who has responsibility for a child, is arrested. Specifically, this policy outlines our collaboration and partnership with Family and Children Services (FCS), and details procedures for the proper placement of children of arrested persons, notification requirements to FCS, and guidelines for the preparation of incident reports in these instances.

It is the goal of the San Francisco Police Department (SFPD) to minimize trauma experienced by a child who witnesses an arrest and the separation caused by the arrest, and to determine the safest alternative care for the child.

7.04.02 DEFINITIONS

- A. CHILD** - An unemancipated person under the age of 18. (As used herein, “child” refers to both an individual child or multiple children.)
- B. PARENT** - Any adult who is legally responsible for the well-being, supervision, and care of a child. This individual is generally a biological or adoptive parent, or guardian.
- C. CAREGIVER** - An individual over 18 years of age, selected by a parent or individual responsible for a child after an arrest to temporarily care for the child. Responsibility for the temporary care and supervision of a child may be delegated to any responsible adult, as defined by SF Admin. Code § 96, including a relative, neighbor, mentor, or social worker, etc. A caregiver must be able to pass a preliminary background check by both SFPD and FCS.
- D. FAMILY AND CHILDREN SERVICES (FCS)** - Services provided by Child Protective Services (CPS), which is a division of San Francisco’s Human Services Agency (HSA).
<https://www.sfhsa.org/services/protection-safety/child-protective-services>
- E. MEMBER** - Refers to sworn personnel, unless otherwise specified.

7.04.03 POLICY

- A. Members shall contact FCS as soon as practical in all instances where a parent or other person who has responsibility for a child, is arrested, regardless of whether a second parent is present, for the purpose of ensuring there is no legal barrier to the child’s substitute caregiving arrangement.**

- B. Parents, regardless of whether they are on scene or not, retain the right to designate appropriate placement for their child, provided the designation is consistent with the procedures outlined below, and there is no compelling evidence to demonstrate that the parent's right to designate placement should be denied or the arrest is for child abuse or neglect. Whenever possible, the child should be diverted from official custody and be placed with a responsible caregiver. However, FCS maintains the ultimate responsibility for designating placement in the event the parent does not designate placement, or that no responsible caregiver exists.

7.04.04 PROCEDURES

Members shall ensure children are protected and assist FCS by adhering to the following procedures:

A. Planning an Arrest or Service of a Warrant

1. When planning an arrest or service of a search warrant, members should plan for a time when a child is not present. (See DGO 5.16 *Search Warrants*) If not feasible, arrangements should be made to have representatives from FCS at the scene or on-call, unless doing so will compromise the investigation.

B. Making an Arrest

1. If a person is responsible for a child, whether or not the child is present, a determination regarding appropriate placement shall be made.
2. When a Child is Present

If a child is present during an arrest, members shall:

- a. Make the arrest, whenever reasonable and prudent, including handcuffing and questioning, in a location away from the child's sight and hearing.
- b. Determine whether the arrestee will be permitted to speak with the child.
- c. When feasible, members shall determine if the person being arrested and/or other family members are English-language proficient.
 - i. If the person being arrested and/or other family members are not English-language proficient, arrangements should be made to provide an interpreter. A person under arrest should not be allowed to interpret for a child, and a child should not be allowed to interpret for a person under arrest. (See DGO 5.20 *Language Access Services for Limited English Proficient (LEP) Persons*)
- d. Where appropriate and safe, the person responsible for the child should be given an opportunity to reassure the child and explain what is happening.

- e. If the person responsible for the child is unable to provide reassurance to the child, members shall provide an explanation to the child, in an age and developmentally appropriate manner. It should be emphasized that the child has done nothing wrong and will be safe.
- f. Some circumstances require consideration, including communication or special accommodations, for children or adults with special needs.
- g. Determine whether a non-arrested parent, an adult relative, or a responsible caregiver is willing to take responsibility for the child.
 - i. When reasonably possible, members shall ask about items or objects that provide particular comfort to the child, such as toys, clothing, blankets, photographs or food that can be taken with the child.
 - ii. Members shall ask about any medical, behavioral, or psychological conditions and/or required treatments of the child that would become the responsibility of a caregiver.
- h. If a member reasonably believes a child has suffered, or there is a substantial risk that the child will suffer serious physical harm or illness, members shall take the child into emergency temporary custody. (See DGO 7.01 *Policies and Procedures for Youth Non-Psychological Detention, Arrest, and Custody*, Special Procedures for W&I 300.)
- i. Members shall remain at the scene until the child is in the care of a non-arrest parent, caregiver, or FCS.

3. When a Child is not Present

- a. When making an arrest, officers shall inquire about the presence of a child for whom the arrested adult has responsibility or be aware of items which suggest the presence of a child such as toys, clothing, formula, bunk bed, diapers, etc.
- b. If the arrest occurs while the child is not present (e.g., at school, daycare, etc.), members should discuss with the arrested person how the child will be picked up and by whom.
- c. If a child is at school at the time of the responsible person's arrest, in addition to contacting FCS, members shall contact and advise the school principal or the principal's designee of the arrest and provide placement information if it is available.
- d. Ensure that appropriate arrangements are made, either through SFPD or FCS, to place the child with a non-arrested parent or responsible caregiver.

C. Placement

- 1. The child should be placed with another parent if the individual is capable of assuming responsibility for and care of the child. If questions arise concerning the capability or competency of the second parent, members shall request assistance from a supervisor.

2. If a parent is not available, the arrested person should be given a reasonable opportunity to select and contact a caregiver unless there is a compelling reason not to do so or the arrest is for child abuse or neglect.
3. If possible, a secondary caregiver should also be identified.
4. Members shall conduct a preliminary criminal background check (e.g. California Criminal History (CII), National Crime Information Center (NCIC)/FBI, etc.) to determine if the person willing to take responsibility for the child has a history of child abuse or sexual abuse. Any history of sexual crimes, 290 PC registration status, or violence against children disqualifies the adult from assuming responsibility for the child. However, this does not apply to the non-arrested parent unless there is a court order limiting contact with the children.
5. Members shall contact FCS to notify a FCS worker of the intended placement of a child and to have FCS run a background check for substantiated reports of abuse or neglect.
 - a. To contact FCS, member shall call 415-558-2650, identify themselves and the nature of their call, and ask for an expedited response or call back from FCS.
~~FCS workers have been advised to expedite these calls.~~
 - b. FCS provides 24-hour emergency & crisis services and FCS workers have been advised to expedite these calls.
 - c. In the event a member is unable to contact FCS for any reason, the member shall immediately notify a supervisor who shall respond to the scene. The responding supervisor shall be responsible for ensuring compliance with the requirements set forth in 7.04.03 C.1-5 above
6. If the arrested person is unable or unwilling to identify a caregiver, and other suitable arrangements cannot be secured within a reasonable period of time, the child shall be taken into the custody of FCS.

D. Documentation

1. Members shall include the following in the incident report:
 - a. the identity and biographical information of the child involved;
 - b. whether or not the child was present at the arrest;
 - c. any of the child's special needs such as medical or mental health conditions, physical impairments or limitations, allergies, or developmental disorders;
 - d. the identities, addresses, and contact information of the adult with whom the child was left;
 - e. any contact information of other family members the officers identified to assist FCS, in case future placement is necessary; and
 - f. the name and contact information of the FCS worker and school personnel contacted for notification purposes.

Reference

DGO 5.16 Search Warrants

DGO 5.20 Language Access Services for Limited English Proficient (LEP) Persons

DGO 7.01 Policies and Procedures for Youth Non-Psychological Detention, Arrest, and Custody